

## **Remarks**

The undersigned's Remarks are preceded by related comments of the Examiner, presented in small bold-faced type.

4. **Claims 43-44 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Hanratty (U.S. Patent No. 5,990,897).**

Claims 43-44 have been canceled to speed allowance of the application.

6. **Claims 19-20 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanratty (U.S. Patent No. 5,990,897).**

As per independent claim 19, Hanratty teaches a method and system for automatically/displaying a three dimensional having a plurality of two dimensional views associated therewith, each view having a representation of the model from a predetermined viewpoint (col.4, lines 61-64; col.5, lines 49-65) comprising a step of generating/displaying each two dimensional views of the model according each predetermined rotating angle respectively (col.26, lines 27-49). This implies that Hanratty discloses the steps of rotating the model to represent a first one of the views and continuing rotating the model to present other views of the model as now claimed.

It should be noticed that Hanratty fails to teach a step of pausing to show each two dimensional views of the model to the user. However, such a technique of pausing to show each of a plurality of drawings/images upon to the user's selection was commonly well-known in the art at the time the invention was made. It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the concept of pausing to show each of a plurality of two dimensional views into Hanratty's system in order to make it more user-friendly since the main purpose of Hanratty's system is to generate/display a plurality of two dimensional views associated with a three dimensional object to the user.

As per dependent claim 20, the system of Hanratty which includes the concept of pausing to show each of a plurality of two dimensional views upon to the user's selection as mentioned in above would have explicitly included a step, in response to the user indicating that rotation should stop, of suspending rotation until the user indicates otherwise as now claimed.

As per dependent claim 26, Hanratty further suggests the claimed features at Fig.3.

The Examiner's rejection of claims 19-20 and 26 under 35 USC § 103(a) is respectfully traversed. Contrary to the Examiner's suggestion, Hanratty does not teach or suggest a method implemented in a computer aided design system of displaying a three dimensional model having a plurality of two dimensional views associated therewith, each view comprising a representation of the model from a predetermined viewpoint and said views being views generated based on the three dimensional model and where the method comprises rotating the model to present a first one of the views, pausing to show the first one of the views, and continuously rotating and pausing the model to present other ones of the views.

In contrast to the present invention, in which a model is used to generate views, Hanratty is understood as teaching a system in which a model is reconstructed from a set of existing views. In other words, Hanratty's "views" and the use of those views is inapposite to the use of views in the present invention insofar as, in Hanratty, the views are used to generate the model, while the present invention makes clear that the claimed views and model have the opposite relationship – i.e., the views are generated based on the model. Accordingly, the undersigned respectfully submits that Hanratty's teaching of the use of views to generate a model teaches away from the present invention which claims a model from which views are generated.

The system of claim 19 further requires that there exist a three dimensional model so that the model may be rotated and, as the rotation of that existing model takes place, the model's rotation is paused at certain points and views presented. With regard to this claim requirement, the Examiner simply asserts that the claimed rotation is "implied." The undersigned respectfully disagrees. Nowhere does Hanratty disclose or suggest the use of model rotation and pausing to present a series of views as recited in the present invention. It is respectfully submitted that the Office's suggestion that there exist this "implied" teaching does not meet the standards for the taking of Official Notice. The MPEP clearly states the standards for the Office's taking notice of alleged facts:

Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. ...

It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art. *In re Ahlert*, 424 F.2d at 1091, 165 USPQ at 420-21. See also *In re Grose*, 592 F.2d 1161, 1167-68, 201 USPQ 57, 63 (CCPA 1979) ("[W]hen the PTO seeks to rely upon a chemical theory, in establishing a prima facie case of obviousness, it must provide evidentiary support for the existence and meaning of that theory."); *In re Eynde*, 480 F.2d 1364, 1370, 178 USPQ 470, 474 (CCPA 1973) ("[W]e reject the notion that judicial or administrative notice may be taken of the state of the art. The facts constituting the state of the art are normally subject to the possibility of rational disagreement among reasonable men and are not amenable to the taking of such notice.").

It is never appropriate to rely solely on "common knowledge" in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based. [*In re*] *Zurko*, 258 F.3d [1379] at 1385, 59 USPQ2d [1693] at 1697 [(Fed. Cir. 2001)] ("[T]he Board cannot simply reach conclusions based on its own understanding or experience-or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to some concrete evidence in the record in support of these findings."). While the court explained that, "as an administrative tribunal the Board clearly has expertise in the

subject matter over which it exercises jurisdiction,” it made clear that such “expertise may provide sufficient support for conclusions [only] as to peripheral issues.” *Id.* at 1385-86, 59 USPQ2d at 1697. As the court held in *Zurko*, an assessment of basic knowledge and common sense that is not based on any evidence in the record lacks substantial evidence support. *Id.* at 1385, 59 USPQ2d at 1697. See also *In re Lee*, 277 F.3d 1338, 1344-45, 61 USPQ2d 1430, 1434-35 (Fed. Cir. 2002) (In reversing the Board’s decision, the court stated “‘common knowledge and common sense’ on which the Board relied in rejecting Lee’s application are not the specialized knowledge and expertise contemplated by the Administrative Procedure Act. Conclusory statements such as those here provided do not fulfill the agency’s obligation. The board cannot rely on conclusory statements when dealing with particular combinations of prior art and specific claims, but must set forth the rationale on which it relies.”).

MPEP 2144.03(A) (emphasis in original).

It is respectfully submitted that the subject matter of which the Office has taken notice is “not capable of instant and unquestionable demonstration as being well-known,” *id.*, and that the undersigned knows of no manner for instantly and unquestionably demonstrating that such subject matter is well known. Further, it is submitted that the Examiner appears to have relied on his understanding of “‘common knowledge’ in the art . . . as the principal evidence upon which a rejection was based,” *id.*, which in accordance with the MPEP it is inappropriate to do “without evidentiary support in the record,” *id.*

The MPEP clearly states the standard required for traversing such Official Notice and the undersigned submits that this standard has been met and the Official Notice traversed:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner’s action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. . . . If applicant adequately traverses the examiner’s assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 (“[T]he Board [or examiner] must point to some concrete evidence in the record in support of these findings” to satisfy the substantial evidence test).

MPEP 2144.03(C). The MPEP, furthermore, states the requirements for an Examiner’s continued reliance on personal knowledge after such traverse:

If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2).

*Id.*

Applicant respectfully submits that, to the extent the Office's rejection is based on assertions that a fact is well-known or is common knowledge in the art, such assertions have been made without sufficient documentary evidence. Applicant respectfully suggests that the Office's "obviousness" (i.e., "implied") assertions are not "capable of instant and unquestionable demonstration as being well-known," MPEP 2144.03(A), and have been appropriately traversed in accordance with the standards set forth in MPEP 2144.03(C).

For at least the separate and independent reasons that (1) Hanratty does not teach the generation of views based on a model, but rather, is directed to the generation of a model based on existing views, and (2) contrary to the Examiner's suggestion that the steps of rotating the model are "implied", the cited prior art does not teach or suggest the rotation and pausing method for presenting views claimed in the present application, a rejection under § 103 is not supported. It is respectfully requested that the Examiner withdraw his rejection and allow the claims.

#### **Allowable Subject Matter**

The Examiner's rejection under § 103 is respectfully traversed.

7. **Claims 13-15, 17-18 and 27-42 are allowed.**
8. **Claims 21-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.**

The undersigned respectfully thanks the Examiner for the indication of allowable claims.

#### **Miscellaneous**

Added Claims 45-61 contain limitations substantially corresponding to those of found in previously submitted claims 13-15 and 17-42. The following table shows a correspondence between the independent ones of claims 45-61 and the previously pending claims:

<b>Added Independent Claim</b>	<b>Corresponding Independent Claim</b>
45	13
50	19
55	36

It is respectfully submitted that added claims 45-61 are patentable for at least the reasons as are claims 13, 19 and 36.

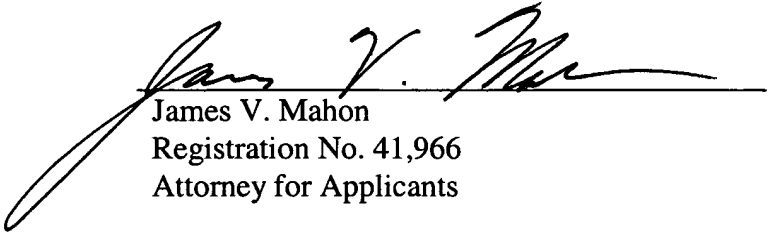
## **Conclusions**

Claims 13-15, 17-42, and 45-61 are now pending and believed to be in condition for allowance. Applicant respectfully requests that all pending claims be allowed.

Please apply any credits or excess charges to our deposit account number 50-0521.

Respectfully submitted,

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